

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14569 of Mary L. French, ("Applicant") pursuant to Paragraph 8207.11 (3107.2, DCMR 11) of the Zoning Regulations, for variances from the prohibition against permitting an accessory building to be partially located in a side yard (Sub-section 7601.2, 2500.2, DCMR 11); to be partially located in the rear yard and which does not have a set back of eight feet from the side lot (Sub-section 7601.3, 2500.6, DCMR 11); the height requirements (Sub-section 7601.2 (2500.6, DCMR 11) and the use of the second floor of the proposed accessory building as a hobby room (Sub-section 7601.3, 2500.6, DCMR 11) in an R-1-B District at premises 5420 MacArthur Boulevard., N.W., (Square 1444, Lot 47).

HEARING DATE: April 8, 1987

DECISION DATE: May 6, 1987

FINDINGS OF FACT:

1. The site, known as premises 5420 MacArthur Boulevard, N.W., is located on the southwest side of MacArthur Boulevard. The site is in an R-1-B District.

2. The site is basically rectangular in shape with a frontage of 71.03 feet along MacArthur Boulevard and an average depth of approximately 81 feet. A fifteen foot wide public alley is located to the rear of the site. The site is improved with a two story residential structure occupied by the Applicant.

3. Pursuant to Paragraph 8207.11 (3107.2, DCMR 11) of the Zoning Regulations, the Applicant is seeking variances from the prohibition against permitting an accessory building to be partially located in a side yard (Sub-section 7601.2, 2500.2, DCMR 11); to be partially located in the rear yard and which does not have a set back of eight feet from the side lot (Sub-section 7601.3, 2500.6, DCMR 11), the height requirements (Sub-section 7601.3, 2500.6, DCMR 11).

4. The proposed garage will be located at the west property line, 12 feet from the center of the public alley. This area is part of what was once a separate lot from the lot upon which the main structure is located.

5. The garage will measure 25 feet by 31.83 feet and be 24.5 feet in height.

6. It is impractical to located the garage closer to the house where it would be permitted as a matter of right as that would necessitate: (i) removing a very large old oak and magnolia tree, and (ii) would detract from the architectural style of the house.

7. The site slopes approximately 13 feet from front to rear. The garage will be located at the level area beyond the slope at the rear of the site.

8. The Applicant intends to occupy the top floor of the garage a as hobby room or in the alternative as lodgings for domestic help.

9. Advisory Neighborhood Commission 3D submitted a report that it voted to oppose the application because of the number of variances sought, the lack of demonstrated exceptional need and the availability of other options. The Board does not concur.

10. Persons who sought to testify in favor or opposition to the application were given an opportunity to do so.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the Applicant is seeking a use variance and area variances. Paragraph 8207.11 empowers the BZA to grant variances where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under this Act would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, a variance from such strict application so as to relieve such difficulties or hardship, provided such relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the zoning regulations and map.

The Board concludes that the Applicant has met the burden of proof for the area variances. Sub-section 7601.2 of the Zoning Regulations provides that an accessory building shall be located only in a rear yard. The proposed garage will extend into the side yard approximately nine feet necessitating a variance of 20.5 feet or 82 percent. Sub-section 7601.3 requires a side yard of eight feet. As the structure is providing no side yard, a variance of eight feet or 100 percent is required. Sub-section 7601.2 states in pertinent part that a two-story accessory building shall not exceed 20 feet in height. The structure exceeds this

requirement by 4.50 feet, or 22.50 percent. The Board concludes that a practical difficulty results from the location of large and invaluable trees at the site where the garage could be located as a matter-of-right. The Board further concludes that the design of the existing structure makes it impractical to locate the garage adjacent to the structure. The Board notes the grade difference between the front and rear yards. The Board further concludes that granting the proposed relief will not cause substantial detriment to the public good and will not substantially impair the intent, purpose and integrity of the zone plan. The Board concludes that the Applicant has not met the burden of proof for the requested use variance.

The Board concludes that it has accorded the report of the Advisory Neighborhood Commission (ANC) 3D the "great weight" to which it is entitled.

Accordingly, it is hereby ORDERED that the area variances are GRANTED SUBJECT to the CONDITION that construction shall be in accordance with the plans marked as Exhibit No. 6 of the record and the use variance is DENIED.

VOTE: 4-1 (Maybelle T. Bennett, Charles R. Norris, William F. McIntosh and Carrie L. Thornhill to grant area variance and deny use variance; Paula L. Jewell to deny application).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER: JUN 2 1987

UNDER SUB-SECTION 8204.3 (3103.1, DCMR 11) OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.